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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,898	01/14/2004	Jeffrey K. Daniel	123018.0008.000	3104

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SAN ANTONIO, TX 78205

EXAMINER

BONCK, RODNEY H

ART UNIT	PAPER NUMBER
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3681

MAIL DATE	DELIVERY MODE
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12/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/756,898

Applicant(s)

DANIEL, JEFFREY K.

Examiner

Rodney H. Bonck

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14, 16-24, 27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14, 16-24, 27 and 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

The following action is in response to the amendment received November 9, 2007.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 8, line 3, "said tractor" lacks a proper antecedent basis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howard('274) in view of Pietrzak et al.('706). Howard discloses a drive line system having a power input shaft 23 and a power output shaft coupled to the power input shaft

to form a right angle drive. Howard discloses that agricultural machinery would be coupled to the output shaft. A clutch mechanism is shown coupled to the gear mechanism. While the gear mechanism in Howard is in an enclosure with lubricant oil, the clutch is not in an enclosure. The Pietrzak et al. device discloses a right angle speed reducing gear drive with a slip coupling and teaches that the speed reducer housing be filled with lubricant and that the clutch also be in the enclosure to provide an oil bath for the clutch. It would have been obvious to provide the clutch of Howard in an oil-filled enclosure to provide cooling and lubrication for the clutch. The clutch and gearing would obviously be in separate housings to use lubricant best suited for each, or the clutch and gearing would be in the same housing to permit the use of a single lubricant. The clutch in Howard is on the input shaft, but it would have been obvious to the artisan that gear train protection would similarly be provided with the clutch on the output shaft.

Claims 8-12, 14, 16-24, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howard('274) in view of Pietrzak et al.('706) as applied to claims 1-7 above, and further in view of the acknowledged Prior Art of applicant's Fig. 1. Howard does not state whether the gearing and clutch are external to the tractor and the agricultural equipment. Applicant has acknowledged, however, that it is known to mount the gearbox and clutch external to the tractor and equipment, and it would have been obvious to mount the Howard device anywhere along the drive train since it would

have provided predictable results to one of ordinary skill in the art at the time of the invention.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cook et al.('277) is cited for its disclosure of a self-contained gearbox and clutch. Harkleroad('866), McCrary et al.('877), and Spicer('723) show couplings external to the drive device and to the load device.

Response to Arguments

Applicant's arguments, filed November 9, 2007, with respect to the rejection under 35 USC 112, 2nd paragraph, have been fully considered and are persuasive. The rejection of claim 4 under 35 USC 112, 2nd paragraph, has been withdrawn.

The rejection of claims 1-28 under 35 USC 102(b) is withdrawn in view of applicant's amendment filed November 9, 2007. New grounds of rejection are necessitated by the amendment, however. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney H. Bonck whose telephone number is (571) 272-7089. The examiner can normally be reached on Monday-Friday 7:00AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on (571) 272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Rodney H. Bonck
Primary Examiner
Art Unit 3681

rhb
December 18, 2007